

(2012).

1 Plaintiffs have failed to establish good cause for the failure to add these claims prior
2 to the date set forth in the scheduling order. Proposed claims 6 and 7 relate to the allegation
3 that SRHD intentionally or negligently failed to properly enforce the WAC's. These claims
4 are based on facts that have been known to the Plaintiffs from the inception of the lawsuit.
5
6 Similarly, Plaintiffs have known that SRHD and Hanna's entered into an Agreement
7 regarding the timeline of bringing the drain field into compliance with the WAC regarding
8 the required set back from an easement since before they filed the within lawsuit. With
9 respect to the claim under the Public Records Act, Plaintiffs were notified in July of 2015
10 that SRHD estimated it would take until December 2016 to provide copies of all 1300
11 complaint files requested by Margitans. The facts supporting these claims were not
12 developed in discovery. Despite having knowledge of the basis for the claims, Margitans
13 sat on these claims for months before requesting leave to amend. Margitans did not even
14 seek to add these claims as part of their first motion to amend filed in September.
15
16 Margitans have not, and cannot, establish good cause for waiting until the last minute to
17 seek permission to add these claims. Plaintiffs' delay has deprived SRHD of its right to
18 adequate notice of the basis of Plaintiffs' claims.
19

20 Allowing the amendment at this stage of the litigation would also prejudice SRHD.
21 The Court has already heard argument on Defendants summary judgment motion, and now
22 a second motion will need to be filed as to the new claims. Additional witnesses and
23 experts may be necessary. Additional written discovery will be required. Requiring
24 Defendant to re-do all of these tasks is prejudicial. This Court's scheduling order, CR 15
25

SCH.MARGITAN.SECONDAMEND.PL.DG.DOC

SRHD/SRHDBOH OPPOSITION TO MOTION TO AMEND ... P. 4

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Exhibit "K"